

NOTICE OF PROPOSED CHANGES REGARDING COST RECOVERY FOR OIL AND  
HAZARDOUS SUBSTANCE RESPONSE COSTS IN THE  
REGULATIONS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation proposes to change regulations dealing with Oil and Other Hazardous Substances Pollution Control. The focus is to update the regulations with clear and specific cost recovery requirements for all spill response actions, including support documentation that form the basis for cost recovery.

The Alaska Department of Environmental Conservation proposes to adopt regulation changes in Chapter 18, Title 75 Article 9, of the Alaska Administrative Code, dealing with Cost Recovery under General Provisions. The changes proposed will amend 18 AAC 75 by adding a new section (.910) to include the following:

- (1) required documentation to support the department's response actions and basis for cost recovery
- (2) specification of liable persons as per reference to AS 46.04.020, AS 46.09.020, AS 46.03.822, or AS 46.03.760 as those liable for response costs and lists costs that are to be included in response costs
- (3) clarification of the department's hourly rate for Direct Staff Costs and Support costs
  - a. formula for computing hourly personnel rates by job class
  - b. defines Direct Staff Costs and Agency Indirect Costs
  - c. lists Direct Staff Costs exclusions
- (4) specification of code assignments unique to each incident or site
  - a. for tracking purposes
  - b. to generate itemized statement documenting costs incurred
  - c. to facilitate the department's billing requirements
- (5) detail regarding interest on past due costs and methodology for interest calculation
- (6) guidance regarding disputed billing or invoices
- (7) information regarding ability to pay and undue financial hardship
- (8) section definitions of costs, incident, and site

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Cost Recovery Section/Division of Spill Prevention and Response, Department of Environmental Conservation, PO Box 111800, Juneau, AK 99811-1800, or by electronic mail at [dec.cr.regulations@alaska.gov](mailto:dec.cr.regulations@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. The comments must be received no later than 5p.m. on November 15, 2015.

You may submit written questions relevant to the proposed action to DEC by electronic mail at [dec.cr.regulations@alaska.gov](mailto:dec.cr.regulations@alaska.gov), or by sending questions to Cost Recovery Section/Division of Spill Prevention and Response, Department of Environmental Conservation, PO Box 111800, Juneau, AK 99811-1800. The questions must be received at least 10 days before the end of the public comment

period. The DEC will aggregate its response to substantially similar questions and make the questions and response available at: <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> or at: [dec.alaska.gov/spar/rfa/cost\\_recovery.htm](http://dec.alaska.gov/spar/rfa/cost_recovery.htm). The department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Natalie Wolfe at 907/269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than November 2, 2015 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting the Cost Recovery Section at the address or email address above or by calling 907-465-5290.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting the Cost Recovery Section at the address or email address above or by calling 907-465-5290. For materials not feasible to post or subject to copyright: A copy of material proposed for adoption by reference may be viewed at the agency's office at PO Box 111800, Juneau, AK 99811-1800.

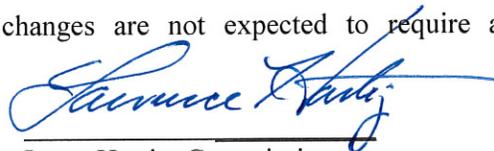
After the public comment period ends, the Department of Environmental Conservation will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

**Statutory Authority:** AS 46.08.070; AS 46.04.010; AS 46.03.822; AS 46.03.760(d)

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 46.04.020, AS 46.09.020, AS 46.03.822, and AS 46.03.760

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

DATE: Oct. 1<sup>ST</sup> 2015

  
Larry Hartig, Commissioner

**PROPOSED REGULATIONS**  
**ADDITIONAL REGULATIONS NOTICE INFORMATION**  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: General Provisions – Cost Recovery
3. Citation of regulation (may be grouped): 18 AAC 75 Article 9
4. Department of Law file number, if any JU2010201122
5. Reason for the proposed action:
  - compliance with federal law
  - compliance with new or changed state statute
  - compliance with federal or state court decision (identify)
  - development of program standards
  - other : To update the regulations with clear and specific cost recovery requirements for all spill response actions, including support documentation that forms the basis for cost recovery.
6. Appropriation/Allocation: BDTO09 (Acct Template)/185666408 CC – RFA Regulation Development and Policy. (The proposed regulation amendments are not expected to require an increased appropriation).
7. Estimated costs in the aggregate to comply with the proposed action to:
  - a.) Private Persons: \$0.00 as there are no additional compliance costs for responsible parties who already comply with the current statutes
  - b.) Other State Agencies: Not Applicable
  - c.) Municipalities: \$0.00 as there are no additional compliance costs for responsible parties who already comply with the current statutes.
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year	Subsequent
	FY16 _____	Years
Operating Cost	\$ <u>0</u> _____	\$ <u>0</u> _____
Capital Cost	\$ <u>0</u> _____	\$ <u>0</u> _____
1002 Federal receipts	\$ <u>0</u> _____	\$ <u>0</u> _____
1003 General fund match	\$ <u>0</u> _____	\$ <u>0</u> _____

1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
1037 General fund/ mental health	\$ <u>0</u>	\$ <u>0</u>
Other	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:

Name: Kristin Ryan  
 Title: Director of Spill Prevention and Response  
 Address: PO Box 11800, Juneau, AK 99811-1800  
 Telephone: 907/269-3094  
 E-mail address: dec.cr.regulations@alaska.gov

10. The origin of the proposed action:

Staff of state agency  
 Federal government  
 General public  
 Petition for regulation change  
 Other (identify): \_\_\_\_\_

11. Date: September 2, 2015

Prepared by: Patricia J. Bower  
 [signature]

Name (printed): Patricia J. Bower  
 Title (printed): Program Coordinator  
 Telephone: 907/465-5152